

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BRANDON ASSOCIATES, LLC,  
Plaintiff,

v.

FAILSAFE AIR SAFETY SYSTEMS, CORP.,  
BLUE SAGE CONSULTING, INC.,  
ELCON MEDICAL, DEBRA  
ESPE and ALAN FEURSTEIN,  
Defendants.

FILED  
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CA#: 04-12013NMG  
U.S. DIST. CT. COURT  
DISTRICT OF MASS.

DEFENDANT BLUE SAGE CONSULTING, INC.'S  
MOTION TO DISMISS PLAINTIFF'S  
AMENDED COMPLAINT UNDER  
RULE 12(b)

Pursuant to F.R.C.P 12(b), Defendant Blue Sage Consulting, Inc (hereinafter, "Blue Sage") moves the Honorable Court to dismiss Plaintiff's Amended Complaint as to Blue Sage.

In support of its motion, Blue Sage states the following:

- 1) The Plaintiff, Brandon Associates, LLC (hereinafter, "Brandon Associates") is a Massachusetts limited liability corporation;
- 2) The defendant, Blue Sage is a Massachusetts corporation;
- 3) The basis for this claim is diversity of citizenship and a case and controversy in excess of \$100,00.00;
- 4) Upon information and belief, Blue Sage was named as a defendant because of Blue Sage's five (5%) percent equity stake in FailSafe Air Safety Systems, Corp., a New York corporation;
- 5) The Plaintiff has failed to state a claim upon which relief can be granted; and
- 6) This court lacks jurisdiction because of a lack of diversity and citizenship.

Blue Sage also attaches and incorporates by reference the Affidavit of Counsel,

WHEREFORE, Blue Sage respectfully requests that this Honorable Court grant its motion to dismiss the amended complaint on the basis of:

- 1) The Plaintiff's failure to state a claim upon which relief can be granted; and
- 2) The court's lack of jurisdiction due to an absence of complete diversity of citizenship.

As Plaintiff was aware that naming Blue Sage as a defendant would destroy diversity of citizenship, Blue Sage seeks dismissal of the action, sanctions for the bad faith filing of the Amended Complaints, attorney fees and costs.



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